

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. HENLEY GRAVES
RESIDENT JUDGE

SUSSEX COUNTY COURTHOUSE
ONE THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947

May 18, 2005

N440
Howard W. Bowman

Sussex Correctional Institution
23203 DuPont Boulevard
P. O. Box 500
Georgetown, DE 19947

RE: Defendant ID Nos. 0311002123 and 0304015998

Dear Mr. Bowman:

The Court is in receipt of your Motion for Postconviction Relief pursuant to Rule 61.

In same, you claim the following:

Ground 1 - Ineffective Assistance of Counsel - I wasn't eligible for the Drug Court Diversion Program. I had three previous paraphernalia convictions. I was told by Commissioner Howard after the fact that I was not eligible for this plea. The reason being it was a first offenders' program.

Ground 2 - Unfulfilled Plea Agreement - I was told by counsel I was to get my other plea of one year of Level 2 probation if the diversion plea did not work out.

Claims of ineffective assistance of counsel must meet the standards of *Strickland v. Washington*, 466 U. S. 668 (1984). This means that you must establish that your attorney's representation fell below an objective standard of reasonableness, and that the performance by your attorney actually impacted upon the determination of your guilt, either through a guilty plea or a trial. In other words, you must establish that your attorney not only did not do their job, but you must also establish the fact that that which you complain of caused you prejudice.

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The above comments by you neither establish ineffective assistance of counsel nor prejudice. They are conclusory allegations based upon not your original sentencing order, but upon the violation of probation sentencing order imposed on April 19, 2005.

As to the matters concerning your unfulfilled plea agreement, again these are conclusory allegations and therefore are summarily dismissed.

Defendant's Motion for Postconviction Relief is denied.

IT IS SO ORDERED.

Yours very truly,

T. Henley Graves

THG:baj
cc: Prothonotary
Department of Justice